

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION - SANTA ANA

SECURITIES AND EXCHANGE)	CASE NO: 8:18-CV-00813-CJC-KESx
COMMISSION,)	
)	CIVIL
Plaintiff,)	
)	Santa Ana, California
vs.)	
)	Tuesday, March 1, 2022
PREMIER HOLDING CORPORATION,)	
ET AL,)	(10:09 a.m. to 10:45 a.m.)
)	
Defendants.)	

JUDGMENT DEBTOR EXAMINATION

BEFORE THE HONORABLE KAREN E. SCOTT,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES: SEE PAGE 2

Court Reporter: Recorded; CourtSmart

Courtroom Deputy: Jazmin Dorado

Transcribed by: Exceptional Reporting Services, Inc.
P.O. Box 8365
Corpus Christi, TX 78468
361 949-2988

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

APPEARANCES:

For Plaintiff:

BENNETT ELLENBOGEN, ESQ.
Securities and Exchange Commission
New York Regional Office
100 Pearl Street
Suite 20-100
New York, NY 10004
212-336-0062

MAUREEN P. KING, ESQ.
ALEXANDER M. VASILESCU, ESQ.
Securities and Exchange Commission
New York Regional Office
200 Vesey Street
Suite 400
New York, NY 10281
212-336-0111

1

INDEX

2

WITNESS EXAMINATION

DIRECT

CROSS

REDIRECT

RECROSS

3

SCOTT DINSMOOR

4

BY MR. ELLENBOGEN

9/16

--

--

--

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 Santa Ana, California; Tuesday, March 1, 2002; 10:09 a.m.

2 | (Call to Order)

3 THE CLERK: Please remain seated and come to order.

4 This United States District Court is now in session, the
5 Honorable Karen E. Scott, Magistrate Judge, presiding.

6 Calling Case Number 8:18-CV-813-CJC-KES, *Securities
7 and Exchange Commission versus Premier Holding Corporation,
8 et al.*

11 **MR. ELLENBOGEN:** Good morning, Your Honor. It's Ben
12 Ellenbogen for the Securities and Exchange Commission.

14 **MS. KING:** Good morning, Your Honor, Maureen P. King
15 for the Securities and Exchange Commission.

16 **THE COURT:** Can you just introduce yourself at the
17 microphone, please?

20 THE COURT: All right. Well, good morning --

21 | MR. DINSMOOR: Good morning, Judge.

22 | THE COURT: -- to both of you.

23 Let me quickly explain the nature of these
24 proceedings and how we're going to go forward today.

25 Mr. Dinsmoor, you're here as a representative of

1 Premier Holding Corporation. They are a Judgment Debtor and
2 the SEC, as the Judgment Creditor, is entitled to pursue
3 discovery to learn about where Premier Holdings' assets may be,
4 what their financial means may be, what their future income
5 opportunities may be and so forth in order to aid in the
6 collection of the judgment.

7 So the purpose of the examination that Mr. Ellenbogen
8 is going to do is essentially to learn information about any
9 property, assets, business affairs, other financial interests
10 of Premier that could be used to satisfy that judgment. As
11 such, the scope of the permissible inquiry is very broad. The
12 permissible inquiry includes anything that could reveal the
13 existence and location of Premier's assets.

14 In a moment, my clerk will administer an oath and
15 you'll be instructed to tell the truth just as if you were
16 testifying in front of a jury. If you do fail to tell the
17 truth, you could be subject to sanctions including criminal
18 prosecution for perjury.

19 As far as the procedures, oftentimes the parties will
20 bring their own court reporters but they're not required to do
21 that. What I understand the parties have requested is for us
22 to stay on the record and hear the record as an audio recording
23 system. The parties will need to speak into microphones in
24 order to make sure that that system picks up clearly what is
25 being said.

1 My courtroom deputy or another member of my staff
2 will be here to make sure that she can see on her screen that
3 the recording equipment is running and hasn't glitched or
4 stopped for some reason. And then at the conclusion of the
5 proceedings, you would need to order a written transcript the
6 same way you would as if it were a legal argument type of a
7 hearing that we had here in court.

8 To the extent that you mark documents as exhibits,
9 you'll need to describe them well on the record because they
10 won't be in our custody and they won't be attached to the
11 transcript.

12 Do you have any questions about those sort of nuts-
13 and-bolts proceedings?

14 **MR. ELLENBOGEN:** Your Honor, just one comment. We
15 are in the process of trying to get a court reporter down here
16 as soon as we can. If we are lucky and he or she shows up
17 timely, we will -- I've discussed this with your courtroom
18 deputy. We will stop the court recording and will pick it up
19 with the court reporter if that's okay.

20 **THE COURT:** That's fine and --

21 **MR. ELLENBOGEN:** And apologies for the
22 miscommunication that we had at our office.

23 **THE COURT:** And that's fine. If it's easier at that
24 point and you want to relocate to one of the conference rooms
25 that's adjacent where people can sit across from each other,

1 then that's fine. Or you can do it here, however you feel most
2 comfortable.

3 **MR. ELLENBOGEN:** Okay.

4 **THE COURT:** The second nuts-and-bolts issue I wanted
5 to bring up was masks. The court is following the CDC
6 guidelines and at the moment, what I'm told is that since
7 Orange County is in the moderate transmission level, it means
8 that masks are mandatory indoors for people who are not
9 vaccinated but for people who are vaccinated, they are
10 optional. Clearly, I know people may have health concerns and
11 whatnot and I don't want to inquire into that.

12 So what my policy has been is that if there is a
13 participant who says, I really prefer that we do this with
14 masks, then I'm going to honor that wish and we'll do it that
15 way. If the participants say, I don't care one way or the
16 other, then it's really up to each individual participant what
17 they do.

18 So let me ask the two of you. Do you have a
19 preference as to whether everyone who participates have a mask
20 or not?

21 **MR. DINSMOOR:** I prefer no mask, honestly.

22 **THE COURT:** Do you -- what do you think,
23 Mr. Ellenbogen?

24 **MR. ELLENBOGEN:** I am okay with no mask as long as
25 we're socially distanced and the parties who are participating

1 have been vaccinated.

2 **THE COURT:** Okay. Hearing that, again, I don't want
3 to ask you about health status but are you willing to honor
4 what he is requesting? If you weren't vaccinated, for example,
5 would you be willing to wear a mask or does that change
6 anything about how you would proceed today?

7 **MR. DINSMOOR:** Well, I would wear a mask if that was
8 the case but --

9 **THE COURT:** Okay.

10 **MR. DINSMOOR:** -- I just read online that Newsom just
11 took the mask mandates off. So --

12 **THE COURT:** Yeah. Unfortunately, because we're a
13 Federal facility here --

14 **MR. DINSMOOR:** I understand. I will abide to any
15 rules you say.

16 **THE COURT:** Okay. Like I said, so I've heard
17 Mr. Ellenbogen say that as long as you're socially distanced
18 and he's got a representation that folks who are not masked are
19 vaccinated, then he's okay with that. And so we'll -- if the
20 court reporter comes, you can set it up in a way where you're
21 socially distanced, then that's fine.

22 All right. So with those matters taken care of, my
23 courtroom deputy will go ahead and administer the oath.

24 **THE CLERK:** Mr. Dinsmoor, please raise your right
25 hand.

Dinsmoor - Direct / By Mr. Ellenbogen

9

1 **MR. DINSMOOR:** Raise the hand? Yes.

2 **THE CLERK:** Thank you.

3 **SCOTT DINSMOOR, WITNESS, SWORN**

4 **THE CLERK:** Please state your full name for the
5 record.

6 **THE WITNESS:** Scott Michael Dinsmoor.

7 **THE CLERK:** Thank you.

8 **THE COURT:** All right. So at this point, I'll excuse
9 myself and let you proceed with the examination and if you have
10 any issues, technical or otherwise, you can let Ms. Dorado know
11 and she'll notify me and we'll try and address it.

12 **(Judge Scott exits courtroom)**

13 **MR. ELLENBOGEN:** Okay. Thank you, Your Honor.

14 **DIRECT EXAMINATION**

15 **BY MR. ELLENBOGEN:**

16 Q Okay. Mr. Dinsmoor, good morning. My name is Bennett
17 Ellenbogen and I'm with the Securities and Exchange Commission.
18 And can you please provide me with your address?

19 A 13841 Valencia Avenue -- my personal address?

20 Q Yes, your personal address.

21 A Okay, 13841 Tustin East Drive, Tustin, California, Number
22 169.

23 Q Thank you. And now you understand that you are here to
24 testify on behalf of Premier Holding Corporation; is that
25 correct?

Dinsmoor - Direct / By Mr. Ellenbogen

10

1 A That's correct. I'm here on my own accord.

2 Q You are here on your own accord to testify on behalf of --

3 A I got an email saying I was served but I was not properly
4 served.

5 Q Mr. Dinsmoor, if you don't mind, let's try not to speak
6 over each other because this is being recorded. So when I'm
7 speaking, please let me finish what I'm saying and then I will
8 give you the opportunity to speak as well.

9 So, again, you understand -- it's a "Yes" or "No"
10 question -- that you're here to testify on behalf of Premier
11 Holding Corporation?

12 A Yes, I understand.

13 Q Okay. And just to be clear, when I talk about Premier
14 Holding Corporation, I may use the short term of "Premier" as
15 opposed to just the full name. So when I ask you questions
16 about Premier, you understand that I'm talking about Premier
17 Holding Corporation; is that clear?

18 A Yes, I do.

19 Q Okay. Premier owes the Securities and Exchange Commission
20 almost \$10 million pursuant to a judgment against Premier;
21 isn't that correct?

22 A I'm not aware of that, sir.

23 Q You are not aware?

24 A No.

25 Q You are not aware of the judgment against Premier that was

Dinsmoor - Direct / By Mr. Ellenbogen

11

1 entered by the Court?

2 A I did not read that, sir.

3 Q Okay.

4 A And I'd just like to say for the record, I would feel more
5 comfortable with legal counsel.

6 Q Let me ask you a question. Is -- that's a good point. Is
7 Premier represented by counsel?

8 A Right now we are not in good standing. I have some
9 documents here that I was able to put together. Obviously, due
10 to COVID --

11 Q Sir, the question is, is Premier represented by legal
12 counsel today?

13 A No, that is -- no, we are not.

14 Q Have you been on notice of this litigation since at least
15 April of 2021 when you sent me an email saying you were looking
16 for counsel, yes or no?

17 A Yes.

18 Q Okay. I'm going to hand to you a document. For the
19 record, what I've just given to you is a document that's
20 called, "Judgment as to Defendant Premier Holding Corporation."
21 It's been filed with the court as Docket Number 220. Have you
22 seen this document before?

23 A If I have, it's been a long time. I honestly don't
24 remember. As I'm sure the Court is aware, due to COVID --

25 Q There's no question pending, Mr. Dinsmoor.

Dinsmoor - Direct / By Mr. Ellenbogen

12

1 A No.

2 Q Mr. Dinsmoor.

3 A I don't have no recollection.

4 Q Thank you. I'm going to hand you another document. You
5 can set that one aside for right now. Okay. What I've just
6 handed to you is a document that if a court reporter comes,
7 we're going to have marked as Exhibit Number 2. The first
8 document I showed you we're going to have marked as Exhibit
9 Number 1.

10 This -- on the -- it says on the first page, "The
11 United States of America Securities and Exchange Commission
12 Attestation." And it's attaching a Form 8-K that was received
13 by the Commission on December 17th, 2020 under the name Premier
14 Holding Corporation. Take a look at Exhibit Number 2 and let
15 me know when you are done.

16 A I have read it.

17 Q Have you seen Exhibit Number 2 before?

18 A No.

19 Q You're not familiar with Exhibit Number 2?

20 A No.

21 Q This discusses the SEC case for which you are appearing
22 here today, for the record, 18-CV-00813. Are you familiar with
23 this document? Are you -- I'm sorry.

24 A No, I'm not.

25 Q Are you familiar with this litigation? I apologize.

Dinsmoor - Direct / By Mr. Ellenbogen

13

1 A Yes.

2 Q You are familiar with the litigation. How are you
3 familiar with the litigation?

4 A I got an email last week saying I was to appear on court
5 today per a serve that I did not receive. So I came on my own
6 accord.

7 Q Sorry. The question is, how are you familiar with the
8 fact that there was a litigation by the Securities and Exchange
9 Commission against Premier Holding, Randall Letcavage and
10 Joseph Greenblatt?

11 A I just read it.

12 Q When did you read it?

13 A Just now.

14 Q This is the first time you've read about this litigation?

15 A About this document, yes.

16 Q That's not my question, Mr. Dinsmoor. Please listen to
17 the question. The question is, when did you first become aware
18 that there was a litigation by the Securities and Exchange
19 Commission against Premier Holding?

20 A That most likely would have been March when you emailed me
21 about a year ago.

22 Q And did you have any conversations with anybody about that
23 litigation?

24 A No, I've been working on getting a lawyer.

25 Q That's not my question, Mr. Dinsmoor.

Dinsmoor - Direct / By Mr. Ellenbogen

14

1 A No, I did not.

2 Q You have not discussed this litigation with anybody at any
3 time?

4 A With my wife but that's not -- has no reference to this
5 matter.

6 Q Sir, the question is, have you spoken to about this
7 litigation with anyone?

8 A No.

9 Q You said your wife. Anybody else?

10 A No.

11 Q Thank you. As of today, Premier has paid nothing towards
12 the judgment that it owes in this litigation; is that correct?

13 A I'm not aware.

14 Q Did you -- have you taken any steps to make any payments
15 on Premier's judgment -- obligations?

16 A I have not.

17 Q As the CEO of the company, what steps have you taken?

18 A I have taken no -- I have no lawyer representation, sir.
19 I don't have --

20 Q Sir, the question isn't whether or not you're represented.
21 The question is, have you taken any steps as the CEO of Premier
22 to make any payments on its nearly 10 million-dollar
23 obligation?

24 A I'm not answering any questions without lawyer
25 representation.

Dinsmoor - Direct / By Mr. Ellenbogen

15

1 Q Sir, the question is, have you taken any steps to make any
2 payments on behalf of Premier in its -- pursuant to its
3 obligation to -- of nearly \$10 million?

4 A I will state it again, sir. I need more time to get a
5 lawyer. I need legal representation.

6 Q Yes or no?

7 A I will restate. I need legal representation.

8 Q Sir, the judge is sitting back there. I can get her to
9 come out and the question is simply, "Yes" or "No." Have you
10 taken any steps to make any payment on the nearly 10 million-
11 dollar obligation that Premier has?

12 A I would feel more comfortable with lawyer representation.
13 I just need more time to get a lawyer.

14 Q Mr. Dinsmoor, you'll feel more comfortable to get lawyer
15 representation to do what?

16 A To discuss any further matter.

17 **MR. VASILESCU:** Can you stop for a second, Ben, and
18 have a side break?

19 **MR. ELLENBOGEN:** Yeah, why don't we go off the record
20 for one moment? Thank you.

21 **(A recess is taken from 10:26 a.m. to 10:27 a.m.)**

22 **MR. ELLENBOGEN:** Okay. Are we back on?

23 **THE CLERK:** Okay, you're back on.

24 **MR. ELLENBOGEN:** Okay, thank you.

25 //

Dinsmoor - Direct / By Mr. Ellenbogen

16

1 DIRECT EXAMINATION (CONTINUED)

2 BY MR. ELLENBOGEN:

3 Q Mr. Dinsmoor, I just want to get some clarity on your
4 answer about your need to retain counsel. Are you saying that
5 you need to retain counsel to answer questions at this hearing
6 or that you need to retain counsel to give you some sort of
7 advice about making payments on Premier's obligation?

8 A This hearing.

9 Q So is it your intention not to answer questions without
10 counsel today?

11 A Yes.

12 Q Okay. Then I'm going to request that we have the
13 Magistrate come back out here so we can discuss this issue with
14 the Magistrate.

15 MR. ELLENBOGEN: And if we need to go off the record,
16 we can do that, too.

17 THE CLERK: Okay. We'll go ahead and go off the
18 record. This is the courtroom clerk and I'll let the judge
19 know that the parties are requesting assistance.

20 MR. ELLENBOGEN: Thank you.

21 (A recess is taken from 10:28 a.m. to 10:30 a.m.)

22 THE CLERK: Okay. We are back on the record on Case
23 Number 8:18-CV-813, SEC versus Premier Holding Corporation,
24 et al., Magistrate Judge Karen E. Scott presiding.

25 THE COURT: My courtroom deputy advised me that there

1 was a question about whether or not Mr. Dinsmoor could or
2 should retain an attorney. I can tell you, sir, that you do
3 have a right to be represented by counsel although not at
4 government expense. What is your proposal for what you would
5 like to do?

6 **MR. DINSMOOR:** If I may, Judge Scott -- do you mind
7 if I stand?

8 **THE COURT:** Go right ahead.

9 **MR. DINSMOOR:** I am more comfortable. I (indisc.) my
10 back. So thank you.

11 So it was due to us being in bad standing for so
12 long, right. I was not able to obtain a lawyer but I did put
13 together some documentation that I was able to find, right. I
14 know you guys were requesting documentation. I was able to
15 find some of that.

16 With COVID and everything being shut down, I got an
17 email last week saying I had been served. I never got personal
18 paper in my hand. I don't go to the office because of COVID.
19 I'm very super scared of COVID, being around people. So I'd
20 really prefer some more time so I can acquire legal counsel,
21 Judge.

22 **THE COURT:** Well, you go ahead. I mean, usually if
23 folks were going to retain counsel, we usually have a date
24 certain. We don't usually just have an indefinite extension.

25 **MR. DINSMOOR:** No, of course.

1 **THE COURT:** Right. Okay.

2 Mr. Ellenbogen?

3 **MR. ELLENBOGEN:** Just a couple things. First, just
4 by way of background, Mr. Dinsmoor is refusing to answer
5 questions because he doesn't have counsel.

6 Second, Mr. Dinsmoor has been on notice that he --
7 that there's a litigation and that Premier needs to retain
8 counsel and is -- since April of 2021 and there's been no steps
9 taken. As you know, he has -- he -- Premier -- excuse me --
10 hasn't participated in the litigation whatsoever.

11 And Mr. Dinsmoor was served by a court reporter with
12 the papers ordering him to appear with or without counsel to
13 provide testimony today.

14 **THE COURT:** Well --

15 **MR. DINSMOOR:** I was never served in my hand.

16 **THE COURT:** -- at this point, he's appeared. So you
17 have --

18 **MR. DINSMOOR:** Of my own free will.

19 **THE COURT:** Right. So you have notice of what's
20 going on here and we can take it from there. In terms of
21 trying to reschedule something, again, the Court would be
22 willing to move this, say, like a week in order to get you to
23 retain counsel but the Court is sensitive to the fact that
24 Premier has been involved in this litigation for a long time
25 and has known that it doesn't have counsel appearing for it

1 although it did have counsel appearing for it in the appeal.

2 And so it seems that there should be some opportunity
3 out there for someone to come in and represent Premier or if
4 you're concerned about somebody representing you personally,
5 that would be a different concern.

6 But the Court is not going to authorize a lengthy
7 extension given the delays that have already happened here and,
8 again, the practicalities that make it seem that counsel could
9 be retained in a short period of time here.

10 Is there some other date in the short term of March,
11 say, next week or the week of the 14th when you would be
12 available to come back to court to continue this process?

13 **MR. DINSMOOR:** Well, if I may, Judge. Yeah, see,
14 we've been in bad standing for so long obviously with Premier
15 Holding Corporation. I was able to put together all the papers
16 I could due to COVID and everything being shut down, which why
17 didn't I get this service at my office because COVID. And I
18 never had papers gave into my hand. I was not home. So I got
19 an email. So I came down on my own free accord.

20 And I just need time to get legal representation so I
21 can get everything put together and I'd prefer to be
22 represented by legal counsel.

23 **THE COURT:** Uh-huh.

24 **MR. DINSMOOR:** That's my God-given right. I would
25 like that but I need probably more than two weeks. I need a

1 good -- give me a month or two to be able to have them review
2 everything, put it together. I want to discuss the case, have
3 them go through everything I have not seen and so that way I
4 can see what I have not seen because I've been in lockdown
5 basically the past year and a half, two years. So that's the
6 fact of the truth. That's the truth of the matter.

7 **THE COURT:** Yeah --

8 **MR. ELLENBOGEN:** Respectfully, Your Honor, he --
9 Mr. Dinsmoor told me in April of 2021 that he was in the
10 process of retaining counsel and simply hasn't done it.
11 Another practicality is I flew in from New York. It's a --
12 it's not the easiest to get here and I greatly prefer to be
13 face to face with Mr. Dinsmoor for this hearing.

14 **MR. DINSMOOR:** Well, Judge, if I may. Since we have
15 been in bad standing for so long, there is no capital. I'm
16 doing all I can to get legal representation. That's -- the
17 fact of the matter is there's no money.

18 **THE COURT:** Well, I guess what I want to avoid is
19 saying, okay, we'll delay this and make Mr. Ellenbogen fly out
20 and fly back again and for -- then for you to come back and
21 say, no, I wasn't able to retain counsel because we didn't have
22 any money. So if you're telling me now that there's no money
23 to retain counsel, what is the plan for --

24 **MR. DINSMOOR:** I'm speaking of when I got that email
25 back and forth with --

1 **THE COURT:** Back in April of 2021?

2 **MR. DINSMOOR:** Yes. We were in bad standing but I
3 did get some documentation put together. We are in good
4 standing now. So things have changed on that end at least. We
5 are in good standing, I believe. So I have some -- I have a
6 file here I'm willing to give over which I was ordered to do,
7 on my own accord. Like I said, I did show up on my own accord
8 but I would prefer to be represented by legal counsel. That's
9 my God-given right.

10 **MR. ELLENBOGEN:** Your Honor, there's --

11 **THE COURT:** And we'll give you an opportunity to do
12 that but we're not going to give you two months. I don't think
13 that it's important for -- and this attorney's role would be to
14 represent you in a Judgement Debtor Exam and so in order to do
15 that, there is not a lot of back work that the attorney would
16 need to do with respect to the rest of the case because, again,
17 this proceeding is not about the merits of the case. It's
18 about the location and nature of Premier's assets to satisfy
19 the judgment.

20 So, again, the Court is willing to pick a date on the
21 week of March 7th or the week of March 14th but that's about as
22 far as the Court is going to go and the Court thinks it is,
23 given the history of this case, eminently reasonable that
24 Premier should be able to retain an attorney within that time
25 period.

1 **MR. ELLENBOGEN:** Just a couple points I'd just like
2 to raise. There's no indication that Premier's standing has
3 changed between a week ago, a month ago, a year ago and today
4 and they're not in good standing. They haven't filed any of
5 the filings that they're obligated to file, 10-Ks, 10-Qs to put
6 them up to date. It's been years. So we have no indication of
7 their financial information.

8 And as you correctly point out, the questions that
9 we're asking are going to relate to the relevant time period of
10 2012 to the present. So what Mr. Dinsmoor knows or doesn't
11 know, a lot of it will predate his employment. And he's had
12 ample, ample, ample opportunity to retain a counsel to give him
13 any kind of advice that he needs.

14 **THE COURT:** No, I understand the frustration on the
15 part of the SEC but at the same time, I do want to honor a
16 request to be represented by counsel.

17 Go ahead, Mr. Dinsmoor.

18 **MR. DINSMOOR:** And, Judge, if I may. I'm sorry.
19 With everything going on with my wife's cancer and whatnot,
20 she's super scared of COVID. So I've been on lockdown. This
21 COVID has really put me back far. I know it's no excuse for
22 COVID but that's the honest truth and I just -- like I said, if
23 you could grant me some more time, I'd really appreciate that.

24 **THE COURT:** Well, as I -- I brought my calendar out
25 there. The Court would have free time on Monday, March 14th.

1 Would you be able to do that, Mr. Ellenbogen?

2 **MR. ELLENBOGEN:** I may do it telephonically. We'll
3 see what the office says about that.

4 **THE COURT:** Okay. And are you free on Monday, March
5 14th, Mr. Dinsmoor?

6 **MR. DINSMOOR:** I can make myself free.

7 **THE COURT:** Okay. Well, then what the Court is
8 willing to do is to suspend these proceedings and continue them
9 until March 14th --

10 **MR. ELLENBOGEN:** Can I have a suggestion?

11 **THE COURT:** Go ahead.

12 **MR. ELLENBOGEN:** Can I -- since I'm here in person
13 and Mr. Dinsmoor is here, can I proceed with this examination
14 and get some of the general background information on
15 Mr. Dinsmoor so we don't run into issues just so my -- just his
16 general background information? Or should -- would you prefer
17 that we wait until he's represented?

18 **THE COURT:** I think we should wait until he's
19 represented but what you can do is he's indicated that he has a
20 number of documents that he's going to hand over to you.

21 **MR. ELLENBOGEN:** Yes.

22 **MR. DINSMOOR:** I have one file.

23 **THE COURT:** Okay.

24 **MR. ELLENBOGEN:** That was my next --

25 **THE COURT:** So you can certainly take possession of

1 that and have a discussion about whether you need to copy it or
2 if these are copies you can keep or what the status is.

3 **MR. ELLENBOGEN:** Yes.

4 **THE COURT:** And you'll have a chance to review that
5 before the 14th.

6 **MR. ELLENBOGEN:** I just have one last point I'd like
7 to raise. Your prior order -- this Court's prior order said
8 that Premier has to show up with or without counsel for the
9 examination today. So I would just like to make it clear that
10 if Mr. Dinsmoor again either doesn't show up for the next
11 scheduled hearing or shows up without counsel and doesn't want
12 to testify that there is some repercussion that's clear in the
13 Court order about what the Court plans to do with that.

14 **THE COURT:** What I would like, Mr. Dinsmoor, is that
15 on either the Thursday or Friday before the 14th -- so March
16 10th or 11th, if you can exchange emails with Mr. Ellenbogen --
17 I know you've got each other's email address -- and just
18 confirm that counsel is on board and will be here.

19 **MR. ELLENBOGEN:** Can we have a date certain for that?

20 **THE COURT:** Why don't we do that by the close of
21 business on March 10th?

22 **MR. ELLENBOGEN:** Thank you.

23 **THE COURT:** And if there is some problem with
24 counsel, it is going to be the Court's expectation that you
25 come in any event on the 14th because, again, there has been a

1 lot of opportunity here and notice that there was going to be a
2 need for Premier to obtain counsel and there are lots of
3 attorneys in the Orange County community here who would be
4 willing and able to take the case and assist you. And so it's
5 just a matter of finding one and two weeks should be an ample
6 period of time in which to do that.

7 **MR. DINSMOOR:** Right. And, Judge, if I may
8 reiterate. I only came because I saw the email. I did not get
9 properly served. So I did not have that. So I got an email.
10 I came here based off an email I got last week.

11 **THE COURT:** And who was the email from? Okay.

12 **MR. ELLENBOGEN:** He was -- just for a background of
13 service, we hired a court -- a process server who identified
14 Mr. Dinsmoor's address that he confirmed on the record today --
15 went to his house and a woman who identified as his wife said,
16 yes, this is Mr. Dinsmoor's house and I will accept service for
17 him and he's usually home at night. They came -- so she
18 accepted service.

19 The court reporter -- the process server came back
20 within the next couple of days in the evening time and a male
21 voice threatened the process server when the process server
22 identified themselves. And he said -- the male voice said he
23 refused to accept service.

24 So in addition to those two attempts, service was
25 performed in person on the registered agent and I emailed the

1 documents, the documents being the Court order -- the prior
2 Court order relating to discovery and the document request that
3 was sent to Premier's counsel several years ago. So it was
4 confirmed that he -- that Mr. Dinsmoor would have notice of
5 today's hearing and obviously he did have it.

6 **THE COURT:** Well, I understand --

7 **MR. DINSMOOR:** Judge, if I may, Judge, really quick.

8 **THE COURT:** -- I understand there's a factual dispute
9 about what happened there but I think what's important is just
10 going forward that --

11 **MR. DINSMOOR:** Sure. Well, if I may, can I clear
12 that record, please? First and foremost, my wife does not know
13 anything about legal things whatsoever. And second and
14 foremost, I was -- that night of -- we're speaking was
15 Valentine's Day. My wife's uncle was there at the house. I
16 was in the master bedroom. So I was not even near there in
17 that room.

18 **THE COURT:** Okay. Well, in any event --

19 **MR. DINSMOOR:** So any male voice speaking was my --
20 her uncle and I was upset it was Valentine's Day. So, I mean,
21 come on.

22 **THE COURT:** In any event, you're here now and so
23 you're able to hear the Court directing that you return on the
24 14th. And so you're not going to get served with some
25 additional notice of that date. This is the notice that that

1 date is a required date for Premier to have a corporate
2 representative here for the Judgment Debtor Exam.

3 And we'll enter minutes on the record that reflect
4 that we had this hearing, that it was stopped in response to
5 Premier's request to retain counsel and we'll reflect that
6 there's supposed to be an email exchange by the close of
7 business on March 10th.

8 **MR. DINSMOOR:** Yeah, March 10th. I have it written
9 down.

10 **THE COURT:** Okay. Then if you want to, you can look
11 on the Pacer where all the courts' records are posted. It's
12 all public record. But there will be minutes that reflect that
13 so that there's no confusion.

14 **MR. ELLENBOGEN:** Will there also be a Court order or
15 just the minutes?

16 **THE COURT:** Well, the minutes will be in the form of
17 a Court order. They will say that it was ordered that the
18 Judgment Debtor Exam be suspended but continued on the 14th.

19 **MR. ELLENBOGEN:** Thank you.

20 **THE COURT:** All right. And with that, any other
21 details that the Court can clear up?

22 **MR. ELLENBOGEN:** No, thank you, Your Honor. We --
23 previously in our last hearing, you had -- Your Honor had
24 suggested that we file a finding of fact relating -- since I'm
25 here, I thought I would talk about it -- relating to Premier.

1 Okay.

2 **THE COURT:** And that's -- I have -- I do have that.

3 I am aware of that.

4 **MR. ELLENBOGEN:** Okay.

5 **THE COURT:** And we have, unfortunately, been a little
6 under water in chambers but I know that we're in the course of
7 reviewing that. I think we need to change a few things and I
8 saw that the appeal was resolved in the interim.

9 **MR. ELLENBOGEN:** That's -- and that's the point I was
10 raising. Yes.

11 **THE COURT:** And there was some -- we were going to
12 break out some facts that had to do with Mr. Letcavage versus
13 Premier and so forth but that is something that we are still
14 aware of and working on.

15 **MR. ELLENBOGEN:** Okay. Thank you very much, Your
16 Honor.

17 **MR. DINSMOOR:** Thank you, Judge.

18 **THE COURT:** Thank you.

19 **THE CLERK:** Your Honor, just to be clear, is that
20 10:00 a.m. on March 14th?

21 **THE COURT:** Yes. Let's do it at 10:00 a.m.

22 **THE CLERK:** And here in Courtroom 60, correct?

23 **THE COURT:** Yes. Okay. All right.

24 **MR. ELLENBOGEN:** Thank you, Your Honor.

25 **THE CLERK:** Court is now adjourned.

(Proceeding adjourned at 10:45 a.m.)

CERTIFICATION

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.



March 19, 2022

Signed

Dated

TONI HUDSON, TRANSCRIBER